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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,679	06/25/2001	Jeffrey R. Shutic	11694/04112	9972
27483	7590	11/17/2004	EXAMINER	
CALFEE, HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114			NGUYEN, DINH Q	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/888,679

Applicant(s)

SHUTIC ET AL.

Examiner

Dinh Q. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14, 28-43 and 48-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-3, 8-12, 14, 28-39, 42, 43 and 48-51 is/are rejected.
- 7) ☒ Claim(s) 4-7, 13, 40 and 41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 8-10, 14, 28, 29, 31, 37, 38, 42, 43, 48-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Shutic (U.S. Patent No. 5,743,958).

Shutic discloses a powder spray system 10 comprising: a spray booth 12, a powder feed apparatus 14, to supply powder to spray guns 42 and 46, the powder feed apparatus 14 with a powder feed hopper 68 and a spray hopper 66, a powder extraction 16 to remove powder overspray to a first collector 80 located outside the booth 12, a vacuum source 84 connected to the first collector 80 to transfer powder overspray to a second collector 94 with a feed hopper, the first collector 80 also equipped with a cyclone separator 114 (figure 1), and a sieve 196 connected to a vacuum source 84.

3. Claims 1, 3, 8-10, 28, 29, 31-33, 35-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaneyfelt.

Shaneyfelt disclose a vacuum powder spraying system having a cylindrical spray booth 20 that is rotatable (see figure 1).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shutic or Shaneyfelt in view of Diaz.

Shutic or Shaneyfelt teaches all the limitations of the claims except for a dual cyclone separator. However, Diaz discloses a powder spraying system with spray gun 32, booth 14, feed hopper 56 of a feed center, and a dual cyclone separator 73 wherein the over spraying powder is being fed back to the feed hopper 56 (figure 1). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Shutic or Shaneyfelt with a dual cyclone separator as suggested by Diaz. Doing so would provide an effective way to remove over spraying powder (column 2, lines 24-33).

6. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shutic or Shaneyfelt in view of Fischli et al.

Shutic or Shaneyfelt teaches all the limitations of the claims except for a cyclone outlet interface. However, Fischli discloses a powder coating spray system comprising a spray booth 4, spray gun 8, a powder feed apparatus with powder supply lines 58, a powder extraction apparatus 34.1 and 34.2 to collect over spraying powder to a cyclone separator 46, a vacuum source 52, a second powder collection device 56, a vacuum duct 68/44 to remove powder overspray, a cyclone outlet interface with exhaust line 48 to vacuum source 52, over spraying powder collected by cyclone 46 and mix with fresh powder in the container 56, the powder in the container 56 is to be fed to spray gun 8.

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Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Shutic or Shaneyfelt with a cyclone outlet interface as suggested by Fischli. Doing so would provide an effective spraying device.

7. Claims 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaneyfelt in view of Diaz.

Shaneyfelt teaches all the limitations of the claims except for a spray booth with floor comprises low conductive composite material. Diaz teaches a spraying system that is an electrostatic spraying system wherein surfaces, which are not to be painted, are to be grounds for deflecting the electrostatic charged paint powder from adhering to (column 5, lines 40-43). Therefore, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to configure the device of Shaneyfelt with low conductivity material such as composite material for preventing charged powder adhering to unwanted surfaces.

8. Claims 39 and 51 rejected under 35 U.S.C. 103(a) as being unpatentable over Shutic or Shaneyfelt in view of Ribnitz.

Shutic or Shaneyfelt teaches all the limitations of the claim except for the vacuum receiver being periodically interrupted. However, Ribnitz discloses a powder spraying system with a booth 2, a spray gun 3, with rotatable floor 5 (figure 1), and the vacuum receiver being periodically interrupted (column 6, lines 9-17). Therefore, it would have been obvious to one having ordinary skill in the art to configure the device of Shutic or Shaneyfelt with the vacuum receiver being periodically interrupted as suggested by Ribnitz. Doing so would provide an effective spraying system (column 2, lines 4-8).

**Allowable Subject Matter**

9. Claims 4-7, 13, 40, and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

10. Applicant's arguments filed July 26, 2004 have been fully considered but they are not persuasive.


11. Applicant's arguments with respect to claims 1-3, 8-12, 14, 28-39, 42, 43, 48-51 have been considered but are moot in view of the new ground(s) of rejection.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q Nguyen whose telephone number is (703) 305-0248 (until November 21, 2004). The examiner can normally be reached on Monday-Thursday from 6:30 AM to 5:00 PM. Effective on November 22, 2004, the telephone number will be (571) 272-4907 and the fax number will be (571) 273-4907.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on 703-308-1272. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dinh Q Nguyen  
Primary Examiner  
Art Unit 3752

dqn